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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,057	07/31/2000	David William Geen	95-444	5171

23164 7590 02/25/2004

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EXAMINER

NGUYEN, VAN KIM T

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 02/25/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,057

Applicant(s)

GEEN ET AL.

Examiner

Van Kim T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 31 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 15-20, 23-26, 29-34, 39, 43-49, 54, and 58 is/are rejected.
- 7) ☒ Claim(s) 7-10, 12-14, 21, 22, 27, 28, 35-38, 40-42, 50-53 and 55-57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

This Office Action is responsive to communications filed on July 31, 2000.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 16-17, 23, 29, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen et al (US 5,892,535).

As shown in Figs. 1-35, Allen discloses establishing a call (viewer programs) having a first media channel (national/local video/audio programs) with an IP telephony gateway (202), the first media channel configured for transmitting a first media stream according to a corresponding first compression; initiating closing of the first media channel based on a request (break, ad insertion request) for a resource utilizing a second compression (ad insertion); and starting for the call a second media channel, configured for transmitting a second media stream according to the second compression, upon closing the first media channel (cols. 17-53; esp. col. 17: line 23 – col. 19: line 36).

Claim Rejections - 35 USC § 102

Claims 1, 16-17, 23, 29, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Fenton (US 6,445,697).

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The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As shown in Figs. 1-35, Fenton discloses establishing a call having a first media channel with an IP telephony gateway (20), the first media channel configured for transmitting a first media stream according to a corresponding first compression (transmits between zero and four channels according to codec 1; col. 7: lines 1-5); initiating closing of the first media channel based on a request for a resource utilizing a second compression (if a fifth channel is requested, degrades one channel between zero and four so it can transmit according to codec 2); and starting for the call a second media channel, configured for transmitting a second media stream according to the second compression, upon closing the first media channel (starts transmitting on the channel according to codec 2; col. 7: lines 5-11).

Claim Rejections - 35 USC § 102

Claims 1-2, 4, 6, 11, 16-19, 23-25, 29-30, 32, 34, 44-45, 47, 49 and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Mizuta et al (US 6,584,110).

Regarding claims 1, 16-19, 23-25, 29, and 44, as shown in Figs. 1-19, Mizuta discloses establishing a call having a first media channel with an IP telephony gateway (10, 20, 40), the first media channel configured for transmitting a first media stream according to a corresponding first compression (transmits between zero and four channels

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according to codec 1; col. 7: lines 1-5); initiating closing of the first media channel based on a request for a resource utilizing a second compression (if a fifth channel is requested, degrades one channel between zero and four so it can transmit according to codec 2); and starting for the call a second media channel, configured for transmitting a second media stream according to the second compression, upon closing the first media channel (after degrades one channel between zero and four, starts transmitting on according to codec 2; col. 7: lines 5-11).

Regarding claims 2, 30, and 45, Mizuta also discloses receiving a setup message from the IP telephony gateway on a call control channel (col. 3: lines 6-12); exchanging compression capabilities information with the IP telephony gateway (col. 1: lines 46-52); sending to the IP telephony gateway, on a media control channel, an open channel message requesting establishment of the first media channel according to the first compression based on the compression capabilities information (col. 3: lines 12-21); and initiating transmission of the first media stream on the first media channel in response to an acknowledgment to the open channel message.

Regarding claims 4, 32, and 47, Mizuta also discloses specifying in the open message the first compression as up to 8kbps (Table 1, col. 2: lines 10-33).

Regarding claims 5, 20, 26, 33, and 48, Mizuta also discloses one of G.729 and G.723 encoding as the first compression (col. 20: lines 35-52).

Regarding claims 6, 11, 34, 39, 49, and 54, Mizuta also discloses outputting a close channel message on the media control channel according to H.245 protocol (col. 4: lines 4-5, and 21-26).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 15, 31, 43, 46, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuta as applied to claims 1-2, 29-30, and 44-45 above.

Regarding claims 3, 31, and 46, Mizuta discloses receiving the setup message according to H.225 protocol and sending the open channel message according to H.245 protocol. However, Mizuta does not explicitly call for sending the first media stream according to Real Time Protocol (RTP).

Since a key part of RTP is its support for translation (i.e., changing the encoding of a stream at an intermediate station) or mixing (i.e., receiving streams of data from multiple sources, combining them into a single stream, and sending the result), it would have been obvious to one of ordinary skill in the art at the time was made the first media stream can be transmitted according to RTP.

Regarding claims 15, 43, and 58, Mizuta also does not explicitly call for transferring media data from a text to speech resource to the second media channel as the second media stream.

However, since H.323 is a title standard including a plurality of protocols, e.g., voice, video, and data, it would have been obvious to one of ordinary skill in the art at the time the invention was made media data can be transferred from a text to speech resource

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to the second media channel as the second media stream, motivated by the desire to provide a dynamic and effective route selection.

Allowable Subject Matter

Claims 7-10, 12-14, 21-22, 27-28, 35-38, 40-42, 50-53, and 55-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: Claims are considered allowable when reading the claims none of the references of record singly or in combination disclose or suggest the combination limitations specified in the independent claims including sending on the media control channel a second open channel message requesting establishment of the second media channel according to the second compression, based on the compression capabilities information and reception of an acknowledgment to close the channel message.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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Gidwani (US 6,640,239); Knappe (US 6,603,774); Alperovich et al (US 6,600,738); Arimilli (US 6,515,984); Liu et al (US 6,434,139); Timm et al (US 6,055,268).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

vkn



DOUGLAS OLMS
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